

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**VICTOR BLAKE,**

**Plaintiff,**

**vs.**

**Case No.: 2:15-cv-2625  
JUDGE GEORGE C. SMITH  
Magistrate Judge Deavers**

**COMMISSIONER OF SOCIAL SECURITY,**

**Defendant.**

**ORDER**

On August 11, 2016, the United States Magistrate Judge issued a *Report and Recommendation* recommending that Plaintiff's statement of errors be overruled and that judgment be entered in favor of the Defendant, the Commissioner of Social Security. (*See Report and Recommendation*, Doc. 20). This matter is now before the Court on Plaintiff's Objections to the Magistrate Judge's *Report and Recommendation*. (Doc. 23). The Court will consider the matter *de novo*. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

Plaintiff's objections primarily restate the arguments he previously asserted in the Statement of Errors, including the argument that the Administrative Law Judge erred in placing any weight on the opinion of Dr. Swedberg. Plaintiff now argues that the Magistrate Judge erred in her findings regarding the ALJ's treatment of Dr. Swedberg's opinion. This Court disagrees with Plaintiff.

Plaintiff's argument is unique in that he is not challenging the findings of Dr. Swedberg, but rather, argues that he was not having symptoms on lumbar spine impairment at the time of

the examination by Dr. Swedberg and therefore his findings should not be given any weight. This is not the only evidence relied on by the ALJ, however. The state agency medical consultants, Drs. McKee and Thomas, considered the entire record of Plaintiff's alleged back pain, and opined that he had no severe physical impairment. Even Plaintiff's own treating physician, Dr. Frazier, was aware of Plaintiff's claims of back pain, but stated that "fatigue is his primary disability condition." (Tr. 414). The Magistrate Judge concluded that there was substantial evidence supporting the decision of the ALJ and the Court agrees.

The Court has carefully considered all of Plaintiff's arguments raised in his Statement of Errors and the Objections to the Magistrate Judge's *Report and Recommendation*. The Court agrees with the Magistrate Judge's analysis of the issues raised. For the reasons stated in the well-reasoned *Report and Recommendation*, this Court finds that the objections are without merit.

Based on the aforementioned and the detailed *Report and Recommendation*, the Court finds that Plaintiff's issues, and his specific objections, have been thoroughly considered. Accordingly, the *Report and Recommendation*, Document 20, is **ADOPTED** and **AFFIRMED**. Plaintiff's Objections are hereby **OVERRULED**. Plaintiff's Statement of Errors is hereby **OVERRULED**, and the decision of the Commissioner of Social Security is **AFFIRMED**.

The Clerk shall remove Documents 20 and 23 from the Court's pending motions list, and enter final judgment in favor of Defendant, the Commissioner of Social Security.

**IT IS SO ORDERED.**

/s/ George C. Smith  
**GEORGE C. SMITH, JUDGE**  
**UNITED STATES DISTRICT COURT**